

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BETTY ANNE WATERS, as)
Administratrix of the Estate of)
KENNETH WATERS,)
Plaintiff,) Case No. 04 10521 (GAO) (JGD)
v.)
TOWN OF AYER, NANCY TAYLOR-)
HARRIS, in her individual capacity, ARTHUR)
BOISSEAU, in his individual capacity,)
BUDDY DECOT, in his individual capacity,)
WILLIAM ADAMSON, in his individual)
capacity, PHILIP L. CONNORS, in his)
individual capacity, and JOHN DOE and JANE)
DOES 1-16, in their individual capacities,)
Defendants.)
)

PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO AMEND
SCHEDULING ORDER

Plaintiff Betty Anne Waters, by counsel, hereby responds to Defendants' application to amend the scheduling order to complete police practices expert depositions in March rather than on February 4 and 6.

Plaintiff's primary concern with the proposal is that these depositions have already been delayed several months to accommodate the trial schedule of Mr. Tehan, lead counsel for the defense, and the instant motion contemplates, in effect, delaying them at least another two months. Yet even the March dates appear uncertain, given the likelihood that Mr. Tehan will be on trial in a second matter immediately following the completion of his current trial.

As such, should the Court be inclined to grant the motion, Plaintiff respectfully requests that:

- 1) the Court set dates certain in March for these depositions to take place, to ensure that the dates remain available for all counsel and the experts.
 - a) Defense counsel has indicated that the defense expert, Mr. Ford, is available March 6, 7, 10, 12, and the week of March 17th, and plaintiff's counsel is available to take his deposition March 6th or 7th.
 - b) Mr. Reiter is only available the second or fourth weeks in March, but plaintiff's counsel is not available to defend him the second week in March, so we request a date certain the week of March 24th for that deposition; and
- 2) the Court not entertain any further extension applications from the defense with regard to police practices experts, and rule that, if these depositions are not completed in March by lead counsel or his associate, Mr. Corbo, summary judgment may go forward without them, since expert depositions cannot resolve disputes of fact that otherwise exist in the current record. Given the additional amount of time requested, one of the several other attorneys to have appeared on behalf of the Defendants would have ample time to prepare for March depositions.

Plaintiff's undersigned counsel is available for a telephone conference this week if necessary.

Dated: January 30, 2008

Respectfully submitted,

/s/ Deborah L. Cornwall
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Attorneys for Plaintiff Betty Anne Waters

CERTIFICATE OF SERVICE

I, Emily Gordon, hereby certify that the foregoing opposition was filed through the ECF system and therefore will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on January 30, 2008.


Emily Gordon